

§ 16.5

she deems it to be in the public interest, may develop such information herself as by consultation on a one-time basis with consumers, consumer organizations, and others. The Secretary shall act expeditiously on all requests and shall notify the requester of her decision in writing. If the Secretary determines that there is no need to establish a Specification for labeling the requested consumer product performance characteristics, or because of a lack of resources, she will decline to act further on the request. In those instances where the Secretary declines a request, she shall state the reasons for so declining.

(d) If the Secretary finds that a need exists to establish a Specification for labeling a consumer product under this program, she shall publish a notice in the FEDERAL REGISTER setting out such finding and its basis and stating that she is developing a proposed Specification in accordance with § 16.5.

§ 16.5 Development of performance information labeling specifications.

(a) If the Secretary makes a finding of need pursuant to § 16.4, she will publish a proposed Performance Information Labeling Specification in the FEDERAL REGISTER with a notice giving the complete text of the proposed Specification and any other pertinent information. The notice will invite any interested person to submit written comments on the proposed Specification within 45 days after its publication in the FEDERAL REGISTER, unless another time limit is provided by the Secretary. Interested persons wanting to express their views in an informal hearing may do so, if within 15 days after the proposed Specification is published in the FEDERAL REGISTER, they request the Secretary to hold a hearing. Such informal hearings shall be held so as to give all interested persons an opportunity for the oral presentation of data, views, or arguments in addition to the opportunity to make written submissions. Notice of such hearings shall be published in the FEDERAL REGISTER. A transcript shall be kept of any oral presentations.

(b) Each Specification shall as a minimum include:

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(1) A description of the performance characteristics of the consumer product covered;

(2) An identification by reference of the test methods to be used in measuring the performance characteristics. The test methods, where they exist and are deemed appropriate for inclusion in the particular Specification involved, shall be those which are described in nationally-recognized voluntary standards. Where appropriate test methods do not exist, they will be developed by the Department of Commerce in cooperation with interested parties and set out in full in the Specification;

(3) A prototype label and directions for displaying the label on or with the consumer product concerned. Such directions will not prohibit the display of additional information by the participant on space adjacent to the marked boundaries of the label; and

(4) Conditions of participation.

(c) The Secretary, after consideration of all written and oral comments and other materials received in accordance with paragraph (a) of this section, shall publish in the FEDERAL REGISTER within 30 days after the final date for receipt of comments, or as soon as practicable thereafter, a notice either:

(1) Giving the complete text of a final Specification, including conditions of use, and stating that any prospective participant in the program desiring voluntarily to use the Department of Commerce Mark developed under § 16.10 must advise the Department of Commerce: or

(2) Stating that the proposed Specification will be further developed before final publication; or

(3) Withdrawing the proposed Specification from further consideration.

§ 16.6 Establishment of fees and charges.

(a) The Secretary in conjunction with the use of the Working Capital Fund of the National Institute of Standards & Technology, as authorized under section 12 of the Act of March 3, 1901, as amended (15 U.S.C. 278b), for this program, shall establish fees and charges for use of the Department of Commerce Label and Mark on each product. Such fees and charges shall be